

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2008-006778

12/20/2010

JUDGE ROBERT E. MILES

CLERK OF THE COURT
K. Skelton
Deputy

IN RE THE MATTER OF
LUZ GABRIELA HERNANDEZ

WILLIAM M SPENCE

AND

NICHOLAS JARED YADON

STEPHANIE PRECIADO

LESLIE PAUPORE BUENO

MINUTE ENTRY

The Court took this matter under advisement after trial and now rules as follows:

THE COURT FINDS that the minor child who is the subject of this action lived in Arizona with a parent, or a person acting as a parent, for at least six consecutive months or more prior to the commencement of this action, such that Arizona is the home state of the child vested with jurisdiction to make a child custody determination pursuant to A.R.S. § 25-1031(A)(1).

THE COURT FINDS that Mother seeks sole legal custody while Father seeks joint legal custody; the child's wishes are unknown, but she is too young to express a meaningful opinion in any event; the child has a good relationship with both parents; the parties disagree as to whether the child was burned by Father's wife, but Father has agreed to not allow contact between the child and his wife; Father also agrees that all of his parenting time shall be supervised by his father or stepmother and take place at his father's home; there was no evidence that the child is not adjusted appropriately to both homes, the school or community; there was no evidence of physical or mental health issues that would affect custody; Mother has restricted Father's parenting time, but did so in the good faith belief that the child may be subject to abuse by Father's wife while in Father's care; the Court believes both parents will follow its parenting time orders; Mother has provided primary

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care for the child since the parties' separation when the child was one-year old; both parents have complied with the parent information program; Mother has an Order of Protection in force against Father; and the parties do not communicate well, making joint legal custody problematic.

Primarily because Mother has been the primary care parent for the majority of the child's life, the parties do not communicate well enough to make joint custody feasible, and the existing Order of Protection,

THE COURT FINDS that it is in the best interests of the minor child that Mother have sole legal custody of Isabella F. Hernandez Yadon, born on June 14, 2007, and IT IS SO ORDERED.

IT IS FURTHER ORDERED that Father shall have supervised parenting time with Isabella on alternate weekends from Saturday at 9:00 a.m. until Sunday at 6:00 p.m. Father's parenting time shall be supervised by his father or stepmother at his father's home. Father shall not permit any contact, including telephone contact, between the child and Father's wife, Dawn Yadon.

Notwithstanding the foregoing, IT IS FURTHER ORDERED as follows:

A. Both parents have the right to participate in school conferences, events and activities, and the right to consult with teachers and other school personnel.

B. Both parents have the right to authorize emergency medical and dental treatment, if needed, and the right to consult with physicians or other medical practitioners. Each parent shall immediately advise the other parent of any emergency medical or dental care sought for the child. The parents shall also cooperate on health matters concerning the child and keep one another reasonably informed regarding the status of the child's health. The parents shall also keep one another informed as to names, addresses, and phone numbers of all medical and dental care providers.

C. Each parent may take the child to a church or place of worship of his/her choice during the time that the child is in his/her care.

D. Each parent shall promptly inform the other parent of important events involving the child.

E. All communication regarding the child shall be between the parents, shall be civil at all times, and shall occur by telephone. The parents shall not use the child to convey information or set up parenting time changes.

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F. Each parent shall be entitled to reasonable telephone contact with the child during their normal waking hours while he is in the care of the other parent. Each parent shall allow the child to freely and privately speak to the other parent. The access parent shall be responsible for ensuring a return call by the child to the other parent within a reasonable time in the event that a message is left or a call is initiated at an inconvenient time.

G. Neither parent shall make any derogatory comments about the other parent, or permit others to do so, in the presence of the child. Each parent shall encourage love and respect between the child and the other parent and neither shall do anything that may undermine the other parent's relationship with the child.

H. Each parent shall inform the other parent of any change of address and/or phone number at least two days prior to the change.

I. **PARENTAL ACCESS TO RECORDS AND INFORMATION:** Under Arizona law (A.R.S. § 25-403.06), unless otherwise provided by court order or law, on reasonable request, both parents are entitled to have equal access to documents and other information concerning the child's education and physical, mental, moral and emotional health including medical, school, police, court and other records. A person who does not comply with a reasonable request for these records shall reimburse the requesting parent for court costs and attorney fees incurred by that parent to make the other parent obey this request. A parent who attempts to restrict the release of documents or information by the custodian of the records without a prior court order is subject to legal sanctions.

J. Neither parent shall discuss, or permit others to discuss, custody or other issues in this case with the minor child. Neither parent shall share, or permit others to share, any pleadings, motions, minute entries or other documents related to this case with the minor child. Both parents shall ensure that the minor child has no access to any pleadings, motions, minute entries or other documents related to this case.

K. Both parents shall be listed as contacts on any forms or lists that require contact information including, but not limited to, forms or lists required by schools, extra-curricular activities, child-care providers and medical providers.

L. If either parent intends to relocate outside the State or more than 100 miles within the State, he/she shall provide at least 60 days advance written notice to the other parent and adhere to the provisions of A.R.S. § 25-408(B).

M. Except in emergency situations, the parties shall use the services of a private counselor or Conciliation Services of this Court to resolve any disputes,

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problems or proposed changes regarding this custody and parenting time order prior to seeking further relief from the Court. While a dispute is being resolved, neither parent shall deviate from this custody and parenting time order or act in a way that is inconsistent with the terms of the order.

IT IS FURTHER ORDERED that each party shall pay his/her own attorney's fees and costs incurred in this matter.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, *Arizona Rules of Family Law Procedure*.

/S/ JUDGE ROBERT E. MILES

JUDGE ROBERT E. MILES
JUDICIAL OFFICER OF THE SUPERIOR COURT

FILED: Exhibit Worksheet

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.